

1 CRAIG H. MISSAKIAN (CABN 125202)
United States Attorney
2 PAMELA T. JOHANN (CABN 145558)
Chief, Civil Division
3 MICHAEL J. STARRETT (NYBN 5444575)
Special Assistant United States Attorney

4 450 Golden Gate Avenue, Box 36055
5 San Francisco, California 94102-3495
Telephone: (415) 436-7073
6 michael.starrett@usdoj.gov

7 Attorneys for Respondents

8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN JOSE DIVISION
11

12 ODTMAN ALFONSO CARDENAS
13 CASTELLANOS, *et al.*,

14 Petitioners,

15 v.

16 SERGIO ALBARRAN, *et al.*,

17 Respondents.

) No. 5:25-cv-07962-NW

) **RESPONDENTS' RETURN TO WRIT OF**
) **HABEAS CORPUS**

TABLE OF CONTENTS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

I. FACTUAL AND PROCEDURAL BACKGROUND.....1

II. ARGUMENT2

 A. Petitioners Cardenas Castellanos and Lara Del Rio’s Petition for Writ of Habeas Corpus Is Moot as DHS Can No Longer Assert Detention Authority Over Petitioners2

 B. Petitioner Patino Gonzalez is Subject to Mandatory Detention as She is in Expedited Removal Proceedings.4

 C. Merits of the Petitioners Trujillo Mejia and Garzon Meneses Petition for Writ of Habeas Corpus.....5

 D. Any Ruling On This Habeas Petition Must Allow For Re-Detention Upon a Final Administrative Removal Order.....8

III. CONCLUSION.....8

TABLE OF AUTHORITIES

CASES

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

Abdala v. I.N.S., 488 F.3d 1061 (9th Cir. 2007) 3

Aguilar Garcia v. Kaiser, No. 25-cv-5070, 2025 WL 2998169 (N.D. Cal. Oct. 24, 2025) 8

Altamirano Ramos v. Lyons, No. 25-cv-9785, 2025 WL 3199872 (C.D. Cal. Nov. 12, 2025) 6

Bautista Pico v. Noem, No. 25-cv-8002, 2025 WL 3295382 (N.D. Cal. Nov. 26, 2025) 5

Buenrostro-Mendez v. Bondi, ---F.4th---, 2026 WL 323330 (5th Cir. Feb. 6, 2026) 6, 7

Caicedo-Ruiz v. Kaiser, No. 25-cv-6536, 2025 WL 3301056 (N.D. Cal. Nov. 26, 2025) 6

Cook Inlet Treaty Tribes v. Shalala, 166 F.3d 986 (9th Cir.1999) 3

Dep’t of Homeland Sec. v. Thuraissigiam, 591 U.S. 103 (2020) 4

Foster v. Carson, 347 F.3d 742 (9th Cir. 2003) 3

Garro Pinchi v. Noem, No. 25-cv-5632, 2025 WL 3691938 (N.D. Cal. Dec. 19, 2025) 6

Maldonado Bautista v. Noem, No. 25-cv-1873, 2025 WL 3713987 (C.D. Cal. Dec. 18, 2025) 6

Matter of Yajure Hurtado, 29 I. & N. Dec. 216 (BIA 2025) 5

Meza v. Bonnar, No. 18-cv-2708, 2022 WL 2954333 (N.D. Cal. July 26, 2022) 3, 4

Sixtos Chavez v. Noem, No. 25-cv-2325, 2025 WL 2730228 (S.D. Cal. Sept. 24, 2025) 6

Valencia v. Chestnut, No. 25-cv-1550, 2025 WL 3205133 (E.D. Cal. Nov. 17, 2025) 6

Valencia Zapata v. Kaiser, et al., No. 25-cv-7492, 2025 WL 2741654, (N.D Cal. Jan. 15, 2026) 7

Weng v. Genalo, No. 25-cv-9595, 2026 WL 194248 (S.D.N.Y. Jan. 25, 2026) 6

Zadvydas v. Davis, 533 U.S. 678 (2001) 8

STATUTES

8 U.S.C. § 1182 1, 2, 8

RESPONDENTS’ RETURN

1 8 U.S.C. § 1225 *passim*
2 8 U.S.C. § 1226 5, 6, 7
3 8 U.S.C. § 1227 8
4 8 U.S.C. § 1229a 2, 3, 5
5 8 U.S.C. § 1231 8
6 **REGULATIONS**
7 8 C.F.R. § 1003.38 3
8 8 C.F.R. § 1003.39 3
9 8 C.F.R. § 235.3 4

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1 Respondents provide the following abbreviated return to the Petition for Writ of Habeas Corpus
2 (Dkt. No. 1).

3 **I. FACTUAL AND PROCEDURAL BACKGROUND**

4 Petitioners are five natives and citizens of Colombia or Mexico who entered the United States
5 without inspection, admission, or parole between approximately December 2023 and June 2024. Dkt.
6 Nos. 10-1 (Decl. of Vincent Miers) at ¶ 6; 10-2 (Decl. of Jesse Cruz) at ¶ 6; 10-3 (Decl. of Farshid
7 Moradi) at ¶ 6; 10-4 (Decl. of Soperne Lucas Penn re: Patino Gonzalez) at ¶ 6; 10-5 (Decl. of Soperne
8 Lucas Penn re: Trujillo Mejia) at ¶ 6. U.S. Department of Homeland Security (“DHS”) Customs and
9 Border Protections (“CBP”) officers encountered and apprehended each Petitioner on the same day they
10 entered the United States. Dkt. Nos. 10-1 at ¶ 7; 10-2 at ¶ 7; 10-3 at ¶ 7; 10-4 at ¶ 7; 10-5 at ¶ 7. DHS
11 placed each Petitioner into removal proceedings via issuance of a Notice to Appear (“NTA”), charging
12 them with removability under section 212(a)(6)(A)(i) of the Immigration and Nationality Act (“INA”) [8
13 U.S.C. § 1182(a)(6)(A)(i)], as an alien present without admission or parole. Dkt. Nos. 10-1 at ¶ 8; 10-2
14 at ¶ 8; 10-3 at ¶ 8; 10-4 at ¶ 8; 10-5 at ¶ 8.

15 On September 18, 2025, all five Petitioners appeared for their respective master calendar
16 hearings in San Francisco immigration court. Dkt. Nos. 10-1 at ¶ 11; 10-2 at ¶ 10; 10-3 at ¶ 9; 10-4 at
17 ¶ 10; 10-5 at ¶ 10. At each Petitioner’s respective hearing, DHS counsel made a motion to dismiss
18 removal proceedings to pursue expedited removal under INA § 235 [8 U.S.C. § 1225] but the
19 immigration judge continued the hearing to give Petitioners time to respond to the motions to dismiss.
20 *Id.* After the hearing concluded, U.S. Immigration and Customs Enforcement (“ICE”) Enforcement and
21 Removal Operations (“ERO”) officers took Petitioner into custody pursuant to 8 U.S.C. § 1225(b). *Id.*
22 On the same date, ERO released Petitioners after The Honorable Trina L. Thompson, U.S. District Judge
23 issued a temporary restraining order (“TRO”) requiring their release. Dkt. Nos. 4, 5; Dkt. Nos. 10-1 at ¶
24 12; 10-2 at ¶ 11; 10-3 at ¶ 10; 10-4 at ¶ 11; 10-5 at ¶ 11. Following additional briefing and a hearing, this
25 Court, on October 14, 2025, granted a preliminary injunction requiring Petitioners continued release
26 pending these proceedings. Dkt. No. 17.

27 On October 9, 2025, the immigration judge granted DHS’s motion to dismiss Odtman Alfonso
28 Cardenas Castellanos (“Cardenas Castellanos”)’s removal proceedings. Suppl Decl. of Calvin Choi

1 (“Choi Suppl. Decl.”) at ¶ 7. Cardenas Castellanos did not appeal this decision and the appeal period has
2 expired. *Id.* Therefore, Cardenas Castellanos is no longer in removal proceedings under 8 U.S.C. §
3 1229a. *Id.* Additionally, as of January 29, 2026, ICE has not processed Cardenas Castellanos for
4 expedited removal under 8 U.S.C. § 1225(b)(1) *Id.* at ¶ 8.

5 As of January 29, 2026, the immigration judge has not issued a ruling on DHS’s motion to
6 dismiss Ermides Garzon Meneses (“Garzon Meneses”)’s removal proceedings. Suppl. Decl. of Jesse
7 Cruz (“Cruz Suppl. Decl.”) at ¶ 5. Garzon Meneses is therefore still in removal proceedings under 8
8 U.S.C. § 1229a.

9 On October 9, 2025, the immigration judge granted DHS’s motion to dismiss Alizda Nallive
10 Lara Del Rio (“Lara Del Rio”)’s removal proceedings. Suppl. Decl. of Armando Meneses (“Meneses
11 Suppl. Decl.:

) at ¶ 6. Lara Del Rio did not appeal this decision and the appeal period has expired. *Id.*
12 Therefore, Lara Del Rio is no longer in removal proceedings under 8 U.S.C. § 1229a. *Id.* Additionally,
13 as of January 29, 2026, ICE has not processed Lara Del Rio for expedited removal under 8 U.S.C. §
14 1225(b)(1) *Id.* at ¶ 8.

15 On October 9, 2025, the immigration judge granted DHS’s motion to dismiss Herlinda Patino
16 Gonzalez (“Patino Gonzalez”)’s removal proceedings. *See* Suppl Decl. of Rui Guan (“Guan Suppl.
17 Decl.”) at ¶ 6. Patino Gonzalez did not appeal this decision and the appeal period has expired. *Id.* On
18 December 22, 2025, ICE processed Patino Gonzalez for expedited removal pursuant to 8 U.S.C. §
19 1225(b)(1). *Id.* at ¶ 7. Due to the presence of a TRO in this case, Patino Gonzalez was paroled pursuant
20 to 8 U.S.C. § 1182(d)(5)(A). *Id.* Patino Gonzalez expressed a fear of persecution if returned to her
21 country and was referred to asylum officers for a credible fear interview. *Id.*

22 On October 9, 2025, the immigration judge granted DHS’s motion to dismiss Yolima Trujillo
23 Mejia (“Trujillo Mejia”)’s removal proceedings. Choi Suppl. Decl. at ¶ 9. Trujillo Mejia appealed this
24 decision, and the appeal is currently still pending before the Board of Immigration Appeals (“BIA”). *Id.*
25 Trujillo Mejia is still in removal proceedings under 8 U.S.C. § 1229a. *Id.*

26 II. ARGUMENT

27 A. Petitioners Cardenas Castellanos and Lara Del Rio’s Petition for Writ of Habeas 28 Corpus Is Moot as DHS Can No Longer Assert Detention Authority Over Petitioners

1 Petitioners Cardenas Castellanos's and Lara Del Rio's petitions for writ of habeas corpus should be
2 denied as moot, as the Department of Homeland Security ("DHS") can no longer assert detention authority
3 over them due to the dismissal of his removal proceedings *See Cook Inlet Treaty Tribes v. Shalala*, 166
4 F.3d 986, 989 (9th Cir.1999) ("Mootness can be characterized as the doctrine of standing set in a time
5 frame: The requisite personal interest that must exist at the commencement of the litigation (standing)
6 must continue throughout its existence (mootness).") (internal quotation marks omitted). On October 9,
7 2025, Petitioners Cardenas Castellanos and Lara Del Rio's removal proceedings were dismissed by an
8 immigration judge, and they did not appeal this decision. *See Choi Suppl. Decl.* at ¶ 7; *Meneses Suppl.*
9 *Decl.* at ¶ 6. As such, Cardenas Castellanos and Lara Del Rio are no longer in removal proceedings under
10 8 U.S.C. § 1229a and DHS cannot currently assert detention authority over them.

11 "Mootness is a jurisdictional issue, and 'federal courts have no jurisdiction to hear a case that is
12 moot, that is, where no actual or live controversy exists.'" *Foster v. Carson*, 347 F.3d 742, 745 (9th Cir.
13 2003) (citing *Cook Inlet Treaty Tribes*, 166 F.3d at 989). If an individual is released while a habeas petition is
14 pending, the petition may "continue to present a live controversy" if there remain some "collateral
15 consequence that may be redressed by success on the petition." *Abdala v. I.N.S.*, 488 F.3d 1061, 1064 (9th
16 Cir. 2007). An immigration judge's decision becomes final if an appeal is not filed with the Board of
17 Immigration Appeals ("BIA") within thirty calendar days. *See* 8 C.F.R. §§ 1003.38(b), 1003.39.

18 On October 9, 2025, the immigration judge granted DHS's motion to dismiss Petitioners Cardenas
19 Castellanos and Lara Del Rio removal proceedings pursuant to 8 U.S.C. § 1229a. Cardenas Castellanos and
20 Lara Del Rio did not appeal the immigration judge's decision, so it became final when the appeal period
21 expired on November 9, 2025. As Cardenas Castellanos and Lara Del Rio are no longer in removal
22 proceedings pursuant to 8 U.S.C. § 1229a, or any immigration proceedings, DHS can no longer assert any
23 detention authority over them.

24 Additionally, Cardenas Castellanos and Lara Del Rio have not presented any possible collateral
25 consequences that can be redressed by the habeas petition. *See Abdala*, 488 F.3d at 1064. A Court in this
26 district has already found that a habeas petition filed by an individual in a similar position to these Petitioners
27 was moot when she "has not been re-detained by DHS, and her underlying removal proceedings have been
28 terminated." *Meza v. Bonnar*, No. 18-cv-2708, 2022 WL 2954333, at *1 (N.D. Cal. July 26, 2022). In *Meza*,

1 the Court found that the relief sought through the habeas petition was “tethered to [Meza’s] removal
2 proceedings”. *Id.* at *5. Similarly, in *Meza*, the Court found that the collateral consequences exception did
3 not apply as “the possibility of future immigration proceedings is too speculative” and “does not present a
4 concrete legal disadvantage sufficient to implicate the collateral consequences exception.” *Id.* at *6.

5 Here, Cardenas Castellanos and Lara Del Rio’s requested relief in their habeas petition is based on
6 their ongoing removal proceedings. Dkt. No. 1 at 16. Although Cardenas Castellanos and Lara Del Rio’s
7 removal proceedings were dismissed so that ICE could pursue Expedited Removal pursuant to 8 U.S.C.
8 § 1225(b)(1), ICE has declined to do so in the approximately four months since the immigration judge
9 granted dismissal. *See Choi Suppl. Decl.* at ¶¶ 7, 8; *Meneses Suppl. Decl.* at ¶ 6, 7. Therefore, Petitioners
10 Cardenas Castellanos and Lara Del Rio have not presented any “legal disadvantage sufficient to implicate the
11 collateral consequences exception” and their habeas petition is moot. *Meza*, 2022 WL 2954333, at *6.

12 **B. Petitioner Patino Gonzalez is Subject to Mandatory Detention as She is in Expedited
13 Removal Proceedings.**

14 Section 1225(b)(1) provides for so-called “expedited removal proceedings,” *Dep’t of Homeland Sec.*
15 *v. Thuraissigiam*, 591 U.S. 103, 109–113 (2020), which may be applied to a subset of aliens: those who (1)
16 are “arriving in the United States,” or (2) have “not been admitted or paroled into the United States” and
17 have “not affirmatively shown, to the satisfaction of an immigration officer, that the alien has been
18 physically present in the United States continuously for the 2-year period immediately prior to the date of the
19 determination of inadmissibility.” 8 U.S.C. § 1225(b)(1)(A)(i)–(iii). As to these individuals, the immigration
20 officer shall “order the alien removed from the United States without further hearing or review unless the
21 alien indicates either an intention to apply for asylum . . . or a fear of persecution.” *Id.* § 1225(b)(1)(A)(i). In
22 that event, the alien “shall be detained pending a final determination of credible fear or persecution and, if
23 found not to have such fear, until removed.” *Id.* § 1225(b)(1)(B)(iii)(IV); *see* 8 C.F.R. § 235.3(b)(4)(ii). An
24 individual processed for expedited removal who does not indicate an intent to apply for asylum or a fear of
25 persecution or who is determined not to have a credible fear is likewise detained until removed. 8 U.S.C. §
26 1225(b)(1)(A)(i), (B)(iii)(IV); *see* 8 C.F.R. § 235.3(b)(2)(iii).

27 On October 9, 2025, the immigration judge granted DHS’s motion to dismiss Petitioner Patino
28 Gonzalez’s removal proceedings removal proceedings pursuant to 8 U.S.C. § 1229a. Patino Gonzalez

1 did not appeal this decision, so it became final when the appeal period expired on November 9, 2025. At
2 that point, Patino Gonzalez was no longer in removal proceedings pursuant to 8 U.S.C. § 1229a. On
3 December 22, 2025, ICE processed Patino Gonzalez for Expedited Removal pursuant to 8 U.S.C. §
4 1225(b)(1), at which point she expressed a fear of persecution if returned to her country and was referred
5 to asylum officers for a credible fear interview. Patino Gonzalez is currently in Expedited Removal
6 proceedings pursuant to 8 U.S.C. § 1225(b)(1) and pending a credible fear interview as of January 30,
7 2026, and is therefore subject to mandatory detention pursuant to 8 U.S.C. § 1225(b)(1)(B)(iii)(IV).

8 Here, Patino Gonzalez's requested relief in her habeas petition is based on her ongoing removal
9 proceedings. Dkt. No. 1 at 16. However, as she is now in Expedited Removal proceedings pursuant to 8
10 U.S.C. § 1225(b)(1), she is no longer subject to detention under 8 U.S.C. § 1225(b)(2), but instead is
11 subject to mandatory detention under 8 U.S.C. § 1225(b)(1)(B)(iii)(IV).

12 **C. Merits of the Petitioners Trujillo Mejia and Garzon Meneses Petition for Writ of**
13 **Habeas Corpus**

14 The legal issues presented in this Petition concern the statutory authority for U.S. Immigration
15 and Customs Enforcement's ("ICE") detention of Petitioners Trujillo Mejia and Garzon Meneses under
16 8 U.S.C. §§ 1225(b)(2)(A) or 1226(a), whether Petitioners are entitled to a bond hearing, and whether
17 that bond hearing must be held before Petitioners are detained. While reserving all rights, including the
18 right to appeal, Respondents respectfully submit this abbreviated response in lieu of formal return to
19 preserve the legal issues and to conserve judicial and party resources.

20 Consistent with the Respondents' arguments in opposition to Petitioners' motion for a
21 preliminary injunction, which Respondents incorporate here, the government's position is that
22 Petitioners are subject to mandatory detention under § 1225(b)(2) because they are applicants for
23 admission who are present in the United States without being admitted or paroled. *See Matter of Yajure*
24 *Hurtado*, 29 I. & N. Dec. 216, 228 (BIA 2025). Respondents acknowledge that this Court reached the
25 opposite conclusion in its order granting Petitioner's motion for preliminary injunction (Dkt. No. 17).
26 The majority of the district courts addressing this issue, including "[e]very court in this district to have
27 considered these questions," have similarly rejected Respondents' position. *See, e.g., Bautista Pico v.*
28 *Noem*, No. 25-cv-8002, 2025 WL 3295382, at *2 (N.D. Cal. Nov. 26, 2025), *appeal docketed*, No. 26-

1 459 (9th Cir. Jan. 22, 2026); *Otero on behalf of Caicedo-Ruiz v. Kaiser*, No. 25-cv-6536, 2025 WL
2 3301056 (N.D. Cal. Nov. 26, 2025).¹

3 Respondents bring to this Court’s attention the decisions of several district courts, including
4 courts within the Ninth Circuit, that have reached a contrary conclusion, finding that the petitioners had
5 not established a likelihood of success on the merits of their claim that their detention was governed by
6 § 1226(a) rather than § 1225(b)(2). *See Altamirano Ramos v. Lyons*, No. 25-cv-9785, 2025 WL
7 3199872, at *4 (C.D. Cal. Nov. 12, 2025) (acknowledging that the court had previously rejected the
8 government’s interpretation of § 1225(b)(2), but “after additional research and analysis, the court has
9 concluded that Petitioner is subject to mandatory detention under § 1225(b)(2)(a), and that Petitioner is
10 not eligible for a bond hearing under 8 U.S.C. § 1226(a)”; *Sixtos Chavez v. Noem*, No. 25-cv-2325,
11 2025 WL 2730228 (S.D. Cal. Sept. 24, 2025), *appeal docketed*, No. 25-7077 (9th Cir. Nov. 7, 2025);
12 *Valencia v. Chestnut*, No. 25-cv-1550, 2025 WL 3205133 (E.D. Cal. Nov. 17, 2025); *see also Weng v.*
13 *Genalo*, No. 25-cv-9595, 2026 WL 194248, at *7 (S.D.N.Y. Jan. 25, 2026) (denying petition and finding
14 that the petitioner was lawfully detained pursuant to § 1225(b)(2)).

15 The Fifth Circuit recently addressed the same issue of statutory interpretation presented here and
16 issued a published decision agreeing with Respondents’ interpretation of 8 U.S.C. § 1225(b)(2). *See*
17 *Buenrostro-Mendez v. Bondi*, ---F.4th---, 2026 WL 323330 (5th Cir. Feb. 6, 2026). The Fifth Circuit
18 held that aliens, like Petitioners, who are deemed to be “applicants for admission” under 8 U.S.C.
19 § 1225(a)(1) are “seeking admission” and so are subject to detention under § 1225(b)(2)(A). *Id.* at *1-
20 10. The panel’s reasoning generally aligned with Respondents’ arguments made on this issue,
21 specifically in holding that: “the government’s interpretation does not render portions of § 1226
22 superfluous” because § 1226 “undeniably does work independent from § 1225(b)(2)(A),” *id.* at *7;

23
24 ¹ The government also acknowledges that two district courts within the Ninth Circuit have
25 recently vacated or stayed the Department of Homeland Security’s July 8, 2025 “Interim Guidance
26 Regarding Detention Authority for Applicants for Admission,” which takes the position that all
27 applicants for admission within the meaning of 8 U.S.C. § 1225(a) are subject to mandatory detention
28 under 8 U.S.C. § 1225(b), as contrary to law under the Administrative Procedures Act. *See Maldonado*
Bautista v. Noem, No. 25-cv-1873, 2025 WL 3713987 (C.D. Cal. Dec. 18, 2025) (vacating the
guidance); *Garro Pinchi v. Noem*, No. 25-cv-5632, 2025 WL 3691938 (N.D. Cal. Dec. 19, 2025)
(staying the guidance within ICE’s San Francisco area of responsibility, pending final resolution of the
APA claim). The government has appealed both orders to the Ninth Circuit. *See Maldonado Bautista v.*
DHS, No. 25-7958 (9th Cir.), *Pinchi*, No. 25-cv-05632, Dkt. No. 98.

1 “[t]he everyday meaning of the statute’s terms confirms that being an ‘applicant for admission’ is not a
2 condition independent from ‘seeking admission’”, *id.* at *4; “the government’s interpretation better
3 honors [the] predominant goal in the enactment of IIRIRA”, *id.* at *9; and “[r]egardless of the
4 government’s past practice and regardless of Congress’s silence on § 1225(b)(2)(A), the text controls”,
5 *id.* at *8.²

6 As for the Ninth Circuit, there is currently an appeal pending on this issue. Briefing was
7 completed in *Rodriguez Vasquez v. Bostock*, on February 3, 2026. *See Rodriguez Vasquez v. Bostock, et*
8 *al.*, No. 25-6842, Dkt. Nos. 5, 51 (9th Cir.). The case raises similar issues regarding whether the
9 petitioner’s detention is governed by 8 U.S.C. § 1226(a) or 8 U.S.C. § 1225(b), and will be considered
10 on an expedited schedule with oral argument set for March 4, 2026. *See id.* Dkt. No. 18. Respondents
11 respectfully request leave to provide additional briefing regarding the impact of any decision in
12 *Rodriguez Vasquez* once it is issued. *See Valencia Zapata v. Kaiser, et al.*, No. 25-cv-7492, 2025 WL
13 2741654, Dkt. No. 30 (N.D. Cal. Jan. 15, 2026) (“[T]he Ninth’s Circuit’s decision in *Rodriguez Vasquez*
14 may provide clarity regarding the difficult legal questions raised in Petitioners’ habeas petitions.”).

15 Until this appeal is resolved, however, Respondents acknowledge that the reasoning in this
16 Court’s earlier decision in this case would control the result here if the Court adheres to that decision, as
17 the facts are not materially distinguishable for purposes of the Court’s decision on the legal issue of
18 which statutory provision authorizes Petitioners Trujillo Mejia and Garzon Meneses’s detention. Thus,
19 while Respondents do not consent to issuance of the writ and reserve all rights, including the right to
20 appeal, Respondents hereby rely upon, and incorporate by reference, the legal arguments it presented in
21 opposition to Petitioners’ motion for preliminary injunction, *see* Dkt. No. 10, as well as the legal
22 arguments the government presented to the Ninth Circuit in *Rodriguez Vasquez*, and respectfully
23 submits that the Court can decide the issue without further briefing. However, should the Court prefer to
24 receive a formal return in this matter, Respondents will file such a brief upon the Court’s request.

25
26
27 ² The government recognizes that the Seventh Circuit, on a motion for a stay pending appeal,
28 recently interpreted § 1225(b)(2) in a different manner. *See Castanon-Nava v. U.S. Dep’t of Homeland*
Sec., 161 F.4th 1048, 1061-62 (7th Cir. 2025) (Defendants not likely to succeed on the merits of their
argument that petitioners are subject to mandatory detention under § 1225(b)(2)(A)).

1 **D. Any Ruling On This Habeas Petition Must Allow For Re-Detention Upon a Final**
2 **Administrative Removal Order.**

3 Petitioners' habeas petition asks this Court to categorically enjoin their re-detention without a
4 pre-detention hearing before a neutral arbiter. Dkt. No. 1. But any indefinite injunction would interfere
5 with Respondents' ability to execute a valid order of removal and would both exceed the Court's
6 jurisdiction and contravene the Supreme Court's unambiguous holding in *Zadvydas v. Davis* that
7 mandatory detention without a bond hearing during the removal period is constitutionally permitted. *See*
8 *Zadvydas v. Davis*, 533 U.S. 678 (2001).

9 Petitioners Garzon Meneses and Trujillo Mejia's immigration proceedings will continue even
10 after the Court rules on their habeas petition. Although Petitioners Cardenas Castellanos and Lara Del
11 Rio's immigration proceedings have ended, at some point, they may be subject to a final order of
12 removal. Assuming Petitioners becomes subject to a final order of removal, their detention is mandatory
13 under the INA. *See* 8 U.S.C. § 1231(a)(2)(A) ("During the removal period, the Attorney General shall
14 detain the alien. Under no circumstance during the removal period shall the Attorney General release an
15 alien who has been found inadmissible under section 1182(a)(2) or 1182(a)(3)(B) of this title or
16 deportable under section 1227(a)(2) or 1227(a)(4)(B) of this title"). The Supreme Court has upheld the
17 constitutionality of both the mandatory 90-day detention during the removal period and the
18 presumptively reasonable six-month discretionary detention period following the removal period, both
19 without the requirements of any bond hearing. *See Zadvydas*, 533 U.S. at 701. Thus, if Petitioners
20 become subject to a future final order of removal, their detention will be both constitutionally
21 permissible and statutorily required. Any ruling by this Court, therefore, must allow for the detention of
22 Petitioners to execute a final removal order. *See Aguilar Garcia v. Kaiser*, No. 25-cv-5070, 2025 WL
23 2998169, at *4 (N.D. Cal. Oct. 24, 2025) (denying motion for preliminary injunction in petition seeking
24 pre-detention hearing after petitioner's detention authority shifted to § 1231(a)(2)).

25 **III. CONCLUSION**

26 Petitioners Cardenas Castellanos and Lara Del Rio are no longer subject to detention by DHS.
27 Petitioner Patino Gonzalez is now subject to mandatory detention under 8 U.S.C. § 1225(b)(1)(B)(iii)(IV)
28 as she is in Expedited Removal proceedings. Accordingly, Respondents respectfully request that the Court

1 deny Cardenas Castellanos, Lara Del Rio, and Patino Gonzalez habeas petition as moot. To the extent the
2 Court grants Petitioners relief, it must limit any injunction to permit the execution of a future final order of
3 removal.

4 DATED: February 13, 2026

Respectfully submitted,

6 CRAIG H. MISSAKIAN
United States Attorney

7 /s/ Michael J. Starrett
8 MICHAEL J. STARRETT
Special Assistant United States Attorney

9 Attorneys for Respondents
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28